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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91193932
Party	Defendant Nallaco, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PARAMOUNT PICTURES)	
CORPORATION,)	
)	Opposition No. 91193932
Plaintiff,)	
)	Serial No. 77/763559
v.)	
)	Mark: PARAMOUNT ENTERTAINMENT
NALLACO, INC.,)	
)	
Defendant.)	
)	
)	

ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES

Applicant, Nallaco, Inc. (hereinafter "Nallaco"), for its Answer and Affirmative Defenses to the Notice of Opposition of opposer, Paramount Pictures Corporation (hereinafter "Opposer") allege as follows:

1. Nallaco denies the allegations of Paragraph 1.
2. Nallaco admits that Application Serial No. 77/763559 was published for opposition on October 27, 2009, but lacks information sufficient to form a belief as to the remaining allegations of Paragraph 2, and therefore denies the same, leaving Opposer to its proofs thereon.
3. Nallaco admits U.S. Trademark Reg. No. 1,695,847 for PARAMOUNT was registered on June 23, 1992 in international class 009 for "entertainment motion picture films, entertainment films adapted for television, sound recordings; namely, disc, phonograph records, audio cassettes and compact discs containing music, and pre-recorded video cases and video

tapes featuring music and entertainment” and in international class 041 for “entertainment services; namely, production, distribution and exhibition of motion pictures and production and distribution of television programs.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 3 and therefore denies the same.

4. Nallaco admits U.S. Trademark Reg. No. 1,754,010 for PARAMOUNT was registered on February 23, 1993 in international class 025 for “clothing; namely sweatshirts, sweatpants, T-shirts, hats, jackets, shorts.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 4 and therefore denies the same.

5. Nallaco admits U.S. Trademark Reg. No. 1,771,635 for PARAMOUNT was registered on May 18, 1993 in international class 028 for “toys and games; namely, program cartridges for computer video games and video output game machines, video output game machines and instructional materials sold therewith, toy vehicles and model vehicles and accessories sold as a unit, dolls, board games, poseable figurines, plush toys.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 5 and therefore denies the same.

6. Nallaco admits U.S. Trademark Reg. No. 1,926,010 for PARAMOUNT was registered on October 10, 1995 in international class 041 for “entertainment services in the nature of an amusement park.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 6 and therefore denies the same.

7. Nallaco admits U.S. Trademark Reg. No. 2,736,878 for PARAMOUNT was registered on July 15, 2003 in international class 009 for “digital video discs and digital versatile

discs featuring pre-recorded motion pictures, television series and made-for-television motion pictures.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 7 and therefore denies the same.

8. Nallaco admits U.S. Trademark Reg. No. 103,248 for PARAMOUNT PICTURES was registered on March 23, 1915 in international class 0209 for “motion pictures.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 8 and therefore denies the same.

9. Nallaco admits U.S. Trademark Reg. No. 2,683,224 for PARAMOUNT PICTURES was registered on February 4, 2003 in international class 041 for “entertainment services, namely production, distribution and exhibition of motion pictures.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 9 and therefore denies the same.

10. Nallaco admits U.S. Trademark Reg. No. 2,437,554 for PARAMOUNT CLASSICS was registered on March 20, 2001 in international class 041 for “production and distribution of motion pictures.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 10 and therefore denies the same.

11. Nallaco admits U.S. Trademark Reg. No. 2,474,029 for PARAMOUNT CLASSICS was registered on July 31, 2001 in international class 025 for “production and distribution of motion pictures, television series and made for television motion pictures.” Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 11 and therefore denies the same.

12. Nallaco admits U.S. Trademark Reg. No. 2,500,692 for PARAMOUNT CLASSICS was registered on October 23, 2001 in international class 009 for "video cassettes, videodiscs, and digital videodiscs (DVD) featuring prerecorded motion pictures." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 12 and therefore denies the same.

13. Nallaco admits U.S. Trademark Reg. No. 2,445,054 for PARAMOUNT CLASSICS PARAMOUNT was registered on April 17, 2001 in international class 009 for "video cassettes, videodiscs, and digital videodiscs (DVD) featuring prerecorded motion pictures." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 13 and therefore denies the same.

14. Nallaco admits U.S. Trademark Reg. No. 3,651,683 for PARAMOUNT FAMOUS PRODUCTIONS was registered on July 7, 2009 in international class 009 for "prerecorded audio video tapes, audio video cassettes, audio video discs, and digital versatile discs featuring music, comedy, drama, action, adventure, and/or animation; software linking digitized video and audio media to a global computer information network." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 14 and therefore denies the same.

15. Nallaco admits U.S. Trademark Reg. No. 3,715,709 for PARAMOUNT FAMOUS PRODUCTIONS was registered on November 24, 2009 in international class 041 for "entertainment services in the nature of production and distribution of direct-to-video live-action, comedy, drama and animated motion picture theatrical films." Nallaco lacks information

sufficient to form a belief as to the remaining allegations of Paragraph 15 and therefore denies the same.

16. Nallaco admits U.S. Trademark Reg. No. 3,287,443 for PARAMOUNT VANTAGE was registered on September 4, 2007 in international class 041 for "production and distribution of motion pictures." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 16 and therefore denies the same.

17. Nallaco admits U.S. Trademark Reg. No. 3,330,294 for PARAMOUNT VANTAGE was registered on November 6, 2007 in international class 009 for "pre-recorded video tapes, laser disks and DVD's featuring motion pictures." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 17 and therefore denies the same.

18. Nallaco admits U.S. Trademark Reg. No. 1,842,516 for PARAMOUNT PARKS was registered on June 28, 1994 in international class 041 for "entertainment services in the nature of amusement parks." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 18 and therefore denies the same.

19. Nallaco admits U.S. Trademark Reg. No. 2,710,602 for PARAMOUNT A VIACOM COMPANY DVD was registered on April 29, 2003 in international class 009 for "digital video disks/digital versatile disks featuring prerecorded motion pictures, television series and made for television motion pictures." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 19 and therefore denies the same.

20. Nallaco admits U.S. Trademark Reg. No. 2,773,150 for PARAMOUNT 90TH ANNIVERSARY A VIACOM COMPANY was registered on October 14, 2003 in international class 041 for "entertainment services, namely, production, distribution and exhibition of motion pictures and production and distribution of television programs." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 20 and therefore denies the same.

21. Nallaco admits U.S. Trademark Reg. No. 3,446,465 for THE PARAMOUNT VAULT was registered on June 10, 2008 in international class 041 for "providing online access to digital materials relating to television and motion picture properties via the global computer network." Nallaco lacks information sufficient to form a belief as to the remaining allegations of Paragraph 21 and therefore denies the same.

22. Nallaco is without information sufficient to form a belief as to the allegation of Paragraph 22, and denies the same, leaving Opposer to its proofs thereon.

23. Nallaco is without information sufficient to form a belief as to the allegation of Paragraph 23, and denies the same, leaving Opposer to its proofs thereon.

24. Nallaco is without information sufficient to form a belief as to the allegation of Paragraph 24, and denies the same, leaving Opposer to its proofs thereon.

25. Nallaco denies the allegations of Paragraph 25.

26. Nallaco is without information sufficient to form a belief as to the allegation of Paragraph 26, and denies the same, leaving Opposer to its proofs thereon.

27. Nallaco denies the allegations of Paragraph 27.

28. Nallaco denies the allegations of Paragraph 28.

29. Nallaco denies the allegations of Paragraph 29.

AFFIRMATIVE DEFENSES

Further Answering the Notice of Opposition, Nallaco alleges:

30. On June 18, 2009, Nallaco filed a standard word mark trademark application with the United States Trademark Office for PARAMOUNT ENTERTAINMENT in international class 011 for "Chocolate fountain; cotton candy making machines; Electric popcorn poppers" which was assigned Serial No. 77/763559.

31. As a result of Nallaco's continuous substantial use of its mark PARAMOUNT ENTERTAINMENT since at least as early as September 1, 2008, this mark is a valuable asset of Nallaco and carries considerable goodwill and consumer acceptance of its specialized products sold under the mark. Nallaco alleges that the mark is distinctive based on such goodwill and widespread usage.

32. Nallaco alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, the goods being sold in connection with Nallaco's mark are completely unrelated to the goods and/or services narrowly identified by Opposer in Paragraphs 3-21 and 24.

33. Nallaco further alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Nallaco's mark and the marks identified by Opposer in Paragraphs

3-21 and 24 are not confusingly similar in appearance, sound, connotation and commercial impression. The only similarity, if at all, between Nallaco's mark and the Opposer's marks identified in Paragraphs 3-21 is in the use of the term "paramount" which, based on information and belief, has been used and registered by numerous third parties and should not be afforded protection because it is merely descriptive of a characteristic of the goods or services offered, namely a "superior" product or service.

34. Nallaco alleges that the novelty and specialized nature of its goods -- namely chocolate fountains, cotton candy machines and popcorn machines -- being sold in connection with its mark lends itself to purchasers exercising care when purchasing which negates any likelihood of confusion.

WHEREFORE, Nallaco respectfully requests that the Notice of Opposition be rejected and Nallaco's mark be allowed to proceed to registration.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 6, 2010, a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES was served upon attorney for Opposer via e-mail and first class U.S. Mail:

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